

ORIGINAL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DAVID J. SCOTT,
Plaintiff,

Case: 2:09-cv-10916
Judge: Cook, Julian Abele
MJ: Majzoub, Mona K
Filed: 03-11-2009 At 04:28 PM
IFP SCOTT V. BURRESS ET AL (JTC)

vs.
DANIEL BURRESS, BREW
LANAN, THOMAS CREMONTE,
BERRY GETZEM, THOMAS
DELLERA, TAMER CORONA,
and DARYN COBB,
Defendants.

CIVIL COMPLAINT

With a Jury Demand

This is a civil right action filed by
David J. Scott, an injured person, seeking
damages under 42 USC 1983, alleging retaliation
for exercising protected rights and conspiracy to
violate Plaintiff's civil rights. Plaintiff
seeks a trial by jury.

Jurisdiction and Venue

1. This court has jurisdiction for
this matter pursuant to 42 USC 1331 and
1342 and the First Amendment to the U.S. Constitution.

incorporate the supplemental jurisdiction of the court for any state law claims asserted by the Plaintiff.

2. Venue is proper in this district under 42 USC 1391(e).

Parties

3. Plaintiff incorporated by reference paragraphs 1 through 2 above.

4. At all times pertinent to this complaint David J. Scott was a state prisoner in custody of the Michigan Department of Corrections.

5. At all times pertinent to this complaint Defendant Daniel H. Burns, retired Circuit Court Judge, was a resident of Livingston County; Defendant Brian Bowen was a practicing attorney at law in the County of Livingston; Defendant Thomas Cronan was employed with the Livingston County Sheriff's Department holding the rank of lieutenant; Defendant Thomas DeLoe was employed with the Michigan State Police holding the rank of detection sergeant; Defendant Barry G. Green was employed with the Michigan State Police holding the rank of sergeant; Defendant Thomas Cronan was employed with the Michigan

Lieutenant Defendant Darryl Cobb was employed with the Michigan Department of Corrections as an agent in the parole division of that Department.

General Allegations:

6. Plaintiff incorporated by reference paragraphs 1 through 5 above.

7. Plaintiff was incarcerated with the Michigan Department of Corrections from approximately January 20, 1987 to approximately July 14, 2006, at which time he was released.

8. That on or about July 18, 2005, Plaintiff was granted a parole by the Michigan Parole Board and was scheduled to be released from custody of the Michigan Department of Corrections on or about August 16, 2006.

9. On or about January 4, 2003, Defendant Burrell through counsel, was subpoenaed by Plaintiff for the taking of his deposition in connection with Scott v. Burrell, United States District Court for the Eastern District of Michigan, File No. 1:85-cv-571.

10. That in a letter dated August 5,

Defendants in conjunction with each other submitted and caused to be submitted by fax transmission to the Michigan Public Board on August 15, 2005, Defendant's comments referring to Plaintiff, wrote in pertinent part:

It is the collective opinion of many in law enforcement, the prosecutor's office and the judiciary that Scott poses a legitimate danger to persons in our community. More specifically, Scott has expressed through words and deeds his intent to kill high ranking Attorney General and recently retired Circuit Court Judge David Berman, as well as other judges he believes play a role in his incarceration.

About a year earlier the FBI notified us that Scott had tried to bribe a judge to kill Attorney General. He recently, a few months ago, was found forward as a function for prison but Scott has taken offense at

11. The defendant's and co-defendants' so written and spoken by Defendant Co-defendants were and are utterly false, malicious and slanderous.

12. That by those accusations, Defendant Co-defendants meant and was understood to mean that Plaintiff engaged in criminal acts of solicitation to murder.

13. The defendants, acting jointly and separately, perpetrated said false, malicious and slanderous accusations by design, scheme, and plot, among other things, to subject Plaintiff to oppression, harsh and unfair treatment and to unduly prolong his imprisonment in reaction to Plaintiff's letters to China Defendant Bureau, which were by suppressing Defendant's further taking of said deposition; as set forth by Plaintiff in the course of Plaintiff's petitioning the government for redress.

14. On several occasions, beginning with the submission of said letter to the Foreign Public Board, at each of the Plaintiff's, Defendant's, in the process and hearing of other individuals, names

statements, accusations of Merritt engaging in acts of solicitation to murder.

15 By reason of the acts of Defendant in and through the writing and publishing of said letters, articles and statements, accusations and statements, the Merritt was exposed to public contempt, dishonor and hatred and his family was ostracized by the Michigan Park Board on or about August 16, 2005.

16 The Defendant knows such accusations to be false and same were made maliciously and purposefully with the specific intent to wrongfully cause the revocation of the Merritt's park and to further cause plaintiff other undue pain, misery and hardship.

17 The Defendant knows full well that what server to believe Plaintiff guilty of any crime and particularly the offense of solicitation to murder.

COURT 1

Retraction

18 Plaintiff incorporates by reference paragraph 1 thereof.

petition the government for redress under the Fifth Amendment of the United States Constitution, U.S. Const. amend. V.

20. That right extends to the government of foreign under the open protection clause of the Fifth Amendment of the United States Constitution, U.S. Const. amend. V.

21. Plaintiff exposed his Fifth Amendment rights by subpoenaing Defendant Brown for the taking of his deposits in connection with civil litigation brought by the Plaintiff.

22. Defendants made and published false accusations of Plaintiff engaging in corrupt activity because Plaintiff filed and pursued civil litigation exposing his Fifth Amendment right to petition the government for redress.

23. Defendants knowingly, intentionally, and corruptly and with utter disregard for Plaintiff's constitutional rights made and published false accusations of Plaintiff engaging in corrupt activity to frame the Plaintiff.

24. Defendants, Brown, Loring,

acting under Color of State Law, the
 attempt to deprive Plaintiff of his
 constitutional right to Petition the Governor
 for redress, retaliate against Plaintiff for
 exercising that right by public education
 action against the Plaintiff.

25. As a result of Defendant's
 illegal, wrongful, and tortious acts, Plaintiff
 suffered damages including fear, anxiety,
 interference with his exercise of constitutional
 rights and personal freedom of liberty and
 other dignified and significant deprivation.

Count II

Harassment

26. Plaintiff complains by reason
 thereof, I think 25. Plaintiff

27. The acts of Defendant's acts
 that have been illegal and violation of
 Plaintiff's rights. I believe the defendant
 by actions under the First Amendment of
 the United States Constitution, is to create,
 and I.

28. Defendant, complains with each
 other to injure Plaintiff by forcing Plaintiff
 by knowingly making and publishing such
 actions as make and public false accusation.

as otherwise alleged above.

29. Defendants agree with each other as to the fact that the injury plaintiff brought about is a result of the defendant's actions.

30. As a result of the conspiracy and the defendant's wrongdoings, Plaintiff has suffered damages including fear, anxiety, intrusion into his privacy, exposure of confidential information and prolonged loss of liberty.

Court III

Standard - Defect

31. Plaintiff complains by reference to paragraphs 1 through 30 above.

32. The defendant's wrongdoings include the publishing of false stories, rumors and speeches, kidnapping and confinement, and the loss of liberty of the plaintiff and others who are subject to the same.

33. As a result of being defamed and slandered, Plaintiff has suffered damages including fear, anxiety, and prolonged loss of liberty.

WHEREFORE, Plaintiff seeks judgment for compensation and damages against Defendants Barrow, Lumsden, and others.

Sealed in what am Plant #1 is
entire

Respectfully,


David J. Scott

Plant #1 To Be Pl

Livingston, Tenn

150 S. Highland Way

Memphis TN 38115

Notes: January 1, 2009

VERIFICATION

I, David J. Scott, declare that to have
read the foregoing copy and verify the
facts set forth therein as true and correct
to the best of my personal knowledge.



David J. Scott

Notes: January 4, 2009.

January 4, 2009

David Scott
Livingston County Jail
150 S. Highlander Way
Huron, MI 48843

Chief of the Court
United States District Court
231 W. Lafayette Blvd.
Detroit, MI 48226

Re: David J. Scott v. David B. Scott
Re: Fed Action

Dear Clerk:

Enclosure for filing please find the following:

- Civil Complaint
- Application for EFP

Please take note that this action was initially filed on September 1, 2006 and assigned to Judge Arthur J. TARNOW, Docket No. 06-13916.

Sincerely,

David Scott

This is a request for the court to have the U.S. Marshal RE-serve the summons and complaints. Attached is a list of the attorneys of record under file No. 2:06-cv-13916.

Quilley
David Scott

Attorneys

Starr M. Cabades
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P.O. Box 30736
Lansing ME 48909
517 333 6434

representing
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32900 Schoolcraft Suite 601
Livonia ME 48150-1352
734-261 2460

representing
Daniel Burrell
Thomas Connerly

JS 44

(REV. 12/96)

CIVIL COVER SHEETCOUNTY IN WHICH ACTION AROSE Livingston County ✓

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS**DEFENDANTS**

(b) Livingston County
COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF David Scott
(EXCEPT IN U.S. PLAINTIFF CASES)

Livingston County Daniel Burrell
COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Brian Lavan, Thomas
(IN U.S. PLAINTIFF CASES ONLY) Cremonese
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

VI. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☒ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Ubel & Slander	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 630 Liquor Laws	PROPERTY RIGHTS	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 161 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	LABOR	SOCIAL SECURITY	<input type="checkbox"/> 550 Securities/Commodities/Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 861 HIA (1395f)	<input type="checkbox"/> 575 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract		<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 581 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 592 Economic Stabilization Act
		<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 593 Environmental Matters
		<input type="checkbox"/> 750 Other Labor Litigation	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 594 Energy Allocation Act
		<input type="checkbox"/> 760 Other Labor Litigation	FEDERAL TAX SUITS	<input type="checkbox"/> 595 Freedom of Information Act
		<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 596 Appeal of Fee Determination Under Equal Access to Justice
			<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 597 Constitutionality of State Statutes
				<input type="checkbox"/> 598 Other Statutory Actions

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL UNLESS DIVERSITY.)

Retaliation exercising Protected Right**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO**VIII. RELATED CASE(S) IF ANY** (See instructions):JUDGE Arthur TarnowDOCKET NUMBER 06-13916

DATE

SIGNATURE OF ATTORNEY OF RECORD

Kimberly Hutchens

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously discontinued or dismissed?

☒ YES ☐ NO

✓

If yes, give the following information:

Court: U.S. District Court Eastern District

Case No.: 06-13916

Judge: Arthur Tarnaw

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

☐ YES ☒ NO

✓

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

NOTES:

CIVIL COVER SHEET FOR PRISONER CASES

Case No. <u>09-10916</u>		Judge: <u>Cook</u>	Magistrate Judge: <u>Majzoub</u>
Name of 1 st Listed Plaintiff/Petitioner: David Scott		Name of 1 st Listed Defendant/Respondent: Thomas Cremonte	
Inmate Number: <u>9115</u>		Additional Information:	
Plaintiff/Petitioner's Attorney and Address Information: David Scott #9115 Livingston County Jail 150 Highlander Way Howell, MI 48843			
Correctional Facility:			

BASIS OF JURISDICTION

- ☐ 2 U.S. Government Defendant
☒ 3 Federal Question

ORIGIN

- ☒ 1 Original Proceeding
☐ 5 Transferred from Another District Court
☐ Other:

NATURE OF SUIT

- ☐ 530 Habeas Corpus
☐ 540 Mandamus
☒ 550 Civil Rights
☐ 555 Prison Conditions

FEE STATUS

- ☒ IFP *In Forma Pauperis*
☐ PD Paid

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

- ☐ Yes ☒ No

➤ If yes, give the following information:

Court: _____

Case No: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

- ☐ Yes ☐ No

➤ If yes, give the following information:

Court: United States District Court Eastern District of Michigan

Case No: 06-13916

Judge: Arthur J. Tarnow